



## **REQUEST FOR PROPOSALS SERVICE REVIEW OF CITIES IN SANTA CLARA COUNTY**

### **I. Objective**

The Local Agency Formation Commission (LAFCO) of Santa Clara County is seeking proposals from professional service firms to prepare a Cities Service Review. This work is to be completed in compliance with applicable California Government Code sections, local LAFCO policies and the latest available LAFCO Service Review Guidelines prepared by the Governor's Office of Planning and Research (OPR). A service review is a comprehensive review of municipal services in a designated geographic area in order to obtain information about services, evaluate the provision of services, and recommend actions when necessary, to promote the efficient provision of those services. Service Reviews are intended to serve as tools to help LAFCO, the public and other agencies better understand the public service structure and to develop information to update the spheres of influence of cities and special districts in the county.

LAFCO has used service reviews to highlight best practices for local agency transparency and public accountability, such as maintaining comprehensive financial records, preparing/submitting timely audits, adopting a capital improvement plan and adopting a long-range plan, evaluating agency's performance, and complying with the Brown Act. Service reviews have also been used to evaluate potential governance structure options for local agencies, such as consolidation, merger, and dissolution. LAFCO is not required to initiate boundary changes based on service reviews. However, LAFCO, local agencies or the public may subsequently use the service reviews together with additional research and analysis where necessary, to pursue changes in jurisdictional boundaries.

### **II. Background**

The mandate for LAFCOs to conduct service reviews is part of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), California Government Code §56000 et seq. LAFCOs are required to conduct service reviews prior to or in conjunction with Sphere of Influence updates and are required to review and update the Sphere of Influence for each city and special district as necessary, but not less than once every five years. LAFCO completed

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70 West Hedding Street • 11th Floor, East Wing • San Jose, CA 95110 • (408) 299-5127 • [www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)

COMMISSIONERS: Cindy Chavez, Sequoia Hall, Johnny Khamis, Margaret Abe-Koga, Linda J. LeZotte, Mike Wasserman, Susan Vicklund Wilson

ALTERNATE COMMISSIONERS: Pete Constant, Yoriko Kishimoto, Terry Trumbull, Cat Tucker, Ken Yeager

EXECUTIVE OFFICER: Neelima Palacherla

and adopted its first round of service reviews and sphere of influence updates for all cities and special districts in Santa Clara County prior to January 1, 2008, as required by State law.

LAFCO of Santa Clara County is responsible for establishing, reviewing and updating Spheres of Influence for 43 public agencies in Santa Clara County (15 cities and about 28 special districts). LAFCO began its second round of required service reviews in 2010, with a Countywide Fire Service Review which was completed in December 2010. In December 2011, LAFCO completed a Countywide Water Service Review, and in August 2010, a Service Review and Audit of the El Camino Healthcare District was completed. LAFCO then completed the Special Districts Service Review in two phases (June and December 2013). The spheres of influence for all of the special districts were reviewed and updated as necessary, in conjunction with the completed service reviews. Service reviews and sphere of influence reviews and recommendations for cities is the only outstanding review left in LAFCO's second round of service reviews and is the subject of this Request for Proposals (RFP). This study will be conducted by a professional service firm under the operational direction of the LAFCO Executive Officer.

### **III. Scope of Services**

A draft Scope of Services is enclosed with this RFP as Attachment 1. A final statement of services to be provided will be negotiated with the firm selected to conduct the service review and will be included as part of the professional services agreement.

### **IV. Budget**

A final budget amount for this project will be negotiated with the firm selected for the work prior to reaching agreement. The anticipated project cost of the proposal should not exceed \$75,000.

### **V. Schedule**

It is anticipated that the firm will start work in **October 2014**. The final schedule for this project will be negotiated with the firm selected for the work prior to reaching an agreement.

### **VI. Proposal Requirements**

Response to this RFP must include all of the following:

1. A statement about the firm that describes its history as well as the competencies and resumes of the principal and all professionals who will be involved in the work. This statement should describe the firm's level of expertise in the following areas:

### **General Expertise**

- Familiarity with the CKH Act, the role and functions of LAFCO, and the service review process
- Ability to analyze and present information in an organized format
- Ability to quickly interpret varied budget and planning documents
- Ability to facilitate and synthesize input from a variety of stakeholders
- Familiarity with public input processes and experience in handling the presentation and dissemination of public information for review and comment
- Experience in fostering multi-agency partnerships and cooperative problem-solving
- Ability to provide flexible and creative alternatives where necessary to resolve service and policy issues

### **Service Expertise**

- Management level understanding of how the full range of municipal services are financed and delivered
- Experience in land use planning, growth management, and resource conservation
- Experience with the operational aspects of delivering public services in California (city departments, special districts, private companies)
- Experience in governance structure analysis, including evaluating government structure options (advantages and disadvantages of consolidation or reorganization of service providers)
- Experience in the financial analysis of municipal service delivery systems, including identifying financing constraints and opportunities and cost avoidance opportunities
- Experience in evaluating the transparency and accountability in operations, management and administration of public agencies and identifying opportunities for increasing transparency and accountability
- Experience in evaluating municipal service delivery systems, including performance measurements and benchmarking techniques

2. Identification of the lead professional responsible for the project and identification of the professional(s) who will be performing the day-to-day work.

3. Identification of any associate consultant firms to be involved. If associate consultant firms are proposed, describe the work they will perform and include the same information for each as required for items 1 and 2 above.
4. A statement of related experience accomplished in the last two years and references for each such project, including the contact name, address and telephone number.
5. A statement regarding the anticipated approach for this project, explicitly discussing and identifying any suggested changes to the draft Scope of Services (*Attachment 1*).
6. Identification of any information, materials and/or work assistance required from LAFCO and / or involved service agencies or departments to complete the project. The expectation is that the consultant will use all available data sources to develop/update information for agency profiles in an effort to minimize the workload for affected agencies.
7. An overall project schedule, including the timing of each work task.
8. Information about the availability of all professionals who will be involved in the work, including any associate consultants.
9. The anticipated project cost, including:
  - a. A not-to-exceed total budget amount.
  - b. The cost for each major sub-task identified in the draft Scope of Services.
  - c. The hourly rates for each person who will be involved in the work, including the rates of any associate consultants.
10. Comments about the draft services agreement (*Attachment 2*) specifically including the ability of the firm to meet the insurance requirements and other provisions.

## **VII. Submission Requirements**

**DUE DATE AND TIME: Friday, September 5, 2014**

Proposals received after this time and date may be returned unopened.

**NUMBER OF COPIES:**

9 copies and 1 CD

**DELIVER TO:**

Neelima Palacherla  
LAFCO of Santa Clara County  
70 West Hedding Street, 11<sup>th</sup> Floor  
San Jose, CA 95110

*Note:* If delivery is to be in person please first call the LAFCO office (408-299-6415 or 5148) to arrange delivery time.

#### **VIII. Evaluation Criteria and Selection Process**

Firms will be selected for further consideration and follow-up interviews based on the following criteria:

- relevant work experience
- the completeness of the responses
- overall project approaches identified
- proposed project budget

A consultant selection committee will conduct interviews and the most qualified firm will be selected based on the above evaluation criteria and reference checks. Interviews will be held in September 2014. The selection committee is expected to make a decision soon after. Following the selection of the most qualified firm, a final services agreement including budget, schedule, and final Scope of Services statement will be negotiated before executing the contract.

LAFCO reserves the right to reject any or all proposals, to issue addenda to the RFP, to modify the RFP or to cancel the RFP.

#### **IX. LAFCO Contact**

Dunia Noel, Analyst  
LAFCO of Santa Clara County  
Voice: (408) 299-5148  
Fax: (408) 295-1613  
Email: [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org)

#### **X. Attachments**

1. Scope of Services
2. Professional Service Agreement and Insurance Requirements

#### **XI. Reference Information**

More information on LAFCO and LAFCO's service reviews is available on the LAFCO website ([www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)), including the following:

- LAFCO's Adopted Service Reviews  
([http://www.santaclara.lafco.ca.gov/adptd\\_svce\\_reviews\\_home.html](http://www.santaclara.lafco.ca.gov/adptd_svce_reviews_home.html))
- LAFCO's Service Review Policies  
(<http://www.santaclara.lafco.ca.gov/policies/SRPolicies2009.pdf>)
- Service Review Guidelines issued by the Governor's Office of Planning and Research, please refer to the following links:  
(<http://opr.ca.gov/docs/MSRGuidelines.pdf>)  
(<http://opr.ca.gov/docs/MSRAppendices.pdf>)

## **SCOPE OF SERVICES**

### **SERVICE REVIEW OF CITIES IN SANTA CLARA COUNTY**

LAFCO of Santa Clara County will conduct a service review of the 15 incorporated cities in Santa Clara County, specifically Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, and Sunnyvale; as well as certain unincorporated areas, such as Moffet Field, San Martin, and Stanford. The Cities Service Review will cover a range of services provided by the cities/county, such as wastewater collection and treatment, solid waste collection and management (including composting), parks and recreation, storm water, law enforcement, library services, lighting, animal control, and gas & electricity. California Government Code §56430 requires LAFCO to conduct the review in order to develop information for updating spheres of influence. The statute requires LAFCO to prepare and adopt a written statement of determinations for each of the following considerations:

1. Growth and population projections for the affected area.
2. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
3. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including infrastructure needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.
4. Financial ability of agencies to provide services.
5. Status of, and opportunities for, shared facilities.
6. Accountability for community service needs, including governmental structure and operational efficiencies.
7. Any other matter related to effective or efficient service delivery, as required by commission policy.

### **CITIES' SPHERE OF INFLUENCE REVIEW AND RECOMMENDATIONS**

The final report will also include a review of the current sphere of influence (SOI) of each city and recommendations for any changes to the city's SOI. State law defines a SOI "as the probable physical boundaries and service area of a local agency." However for cities in Santa Clara County, the inclusion of an area within a city's SOI should not necessarily be seen as an indication that the city will either annex or allow urban development and services in the areas. In Santa Clara County, the urban service area (USA) boundary is

the more critical factor considered by LAFCO and serves as the primary means of indicating whether an area will be annexed and provided with urban services.

California Government Code §56425 requires LAFCO, when determining the sphere of influence of each local agency, to prepare and adopt a written statement of determination for the following:

1. The present and planned land uses in the area, including agricultural and open-space lands.
2. The present and probable need for public facilities and services in the area.
3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
4. The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.
5. For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protections that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

### **SPECIAL AREA OF FOCUS: PARTNERSHIPS TO ACHIEVE COMMON GOALS**

In addition to preparing the legally required service review determinations and the SOI review, the Cities Service Review will review current practices and explore future opportunities for collaboration amongst cities and other local agencies or organizations to achieve common goals and efficient delivery of services. The review will focus primarily on joint efforts and/or opportunities related to shared services, sprawl prevention/infill development, and preservation of agricultural lands.

#### **Shared Services**

Shared services is one of the many tools that local agencies can employ to reduce operating costs or maximize staffing potential for specific services without compromising service levels within communities. As part of a service review, LAFCO is required to analyze and prepare a written determination on the “status of, and opportunities for, shared services.” Some cities and local agencies in the county currently share services and facilities to achieve greater efficiencies and there remains a strong interest in identifying new opportunities. Some examples of these efforts include individual cities contracting with the County Sheriff to provide police services to their city; Palo Alto, Mountain View, and Los Altos police departments’ new consolidated computer-aided dispatch (CAD) system; joint ownership and operation of facilities such as the San Jose/Santa Clara Water Pollution Control Plant and the Palo Alto Water

Quality Control Plant; and Santa Clara County Central Fire District contracting with the City of San Jose to serve scattered unincorporated islands.

### **Sprawl Prevention/ Infill Development**

Over the last ten years the number of unincorporated islands scattered throughout the county has been reduced as both large and small islands have been annexed into their surrounding cities. While the reduction of unincorporated islands promotes overall efficiency in service provision, it also presents certain temporary challenges to the agencies that are responsible for planning and providing services to a diminishing territory. The County of Santa Clara is currently considering this issue as it relates to providing waste management services to the remaining islands. Similarly, LAFCO, San Jose, and Burbank Sanitary District have been exploring various ways to more efficiently plan for and provide sanitary sewer services to the unincorporated island, particularly as the District continues to lose territory through annexations to the City of San Jose.

Since the 1970s, Santa Clara County has been at the forefront of city and county planning in the state, with the adoption of the “Joint Urban Development Policies” in the early 1970s and the use of city urban service area boundaries, which were the result of a collaborative effort between the 15 cities, the County, and LAFCO. Further, in the 1990s, the County and interested cities worked together to adopt urban growth boundaries (UGB) for several cities, delineating areas intended for future urbanization. In the mid-1990s, the City of Gilroy, the County, and LAFCO developed an inter-jurisdictional agreement entitled “Strategies to Balance Planned Growth and Agricultural Viability” in which the City agreed to direct growth away from agricultural lands east of Highway 101 and establish a stable UGB. In return, LAFCO agreed to look at the City’s urban service area requests with the UGB more favorably. There may be opportunities for interested cities, the County, and LAFCO to further collaborate in order to direct growth away from agricultural/open space lands and toward infill areas and vacant lands within cities and city urban service areas.

### **Agricultural Lands Preservation**

LAFCO is mandated to preserve agricultural lands and open space. Although there is a growing recognition of the importance of preserving agricultural lands as a local food source in Santa Clara County, agricultural lands remain threatened. There are several collaborative efforts underway in the county relating directly or indirectly to agricultural preservation, including the development of the County’s Health Element; the work of the Santa Clara County Food System Alliance; the Coyote Valley: Sustaining Agriculture and Conservation, a feasibility study led by Sustainable Agriculture Education (SAGE); and the Santa Clara Valley Greenprint which was recently issued by the Santa Clara County Open Space Authority. These reports all identify ways in which local agencies can work cooperatively with each other and interested organizations to help preserve agricultural lands and encourage agriculture.



## **SERVICE REVIEW TASKS OVERVIEW**

The Cities Service Review will be conducted in accordance with LAFCO policies adopted by the Commission and the service review guidelines developed by the Governor's Office of Planning and Research (OPR) where feasible. Preparation of the service review will include the following steps, although other activities may be necessary:

### **1. Data Collection and Review**

- Develop questionnaire relating to the evaluation categories for service reviews
- Identify appropriate criteria to be used for service evaluation, as necessary
- Review questionnaire with LAFCO staff and Technical Advisory Committee (TAC)
- Collect information through interviews, meetings, surveys and /or research
- Compile information in a database
- Verify compiled information with agencies

Work Products: Consultant must deliver to LAFCO staff complete information for each agency.

### **2. Data Analysis**

- Analyze data and prepare preliminary findings based on standards, where appropriate
- Present and discuss the preliminary findings with TAC / LAFCO staff

Work Products: Consultant must deliver preliminary analysis and findings to LAFCO staff

### **3. Administrative Draft Service Review Report**

- Prepare an Administrative Draft Report for LAFCO staff review, in accordance with the project schedule
- LAFCO staff will review and provide comments on the Administrative Draft Report, in accordance with the schedule

Work Products: Consultant must deliver Administrative Draft Report to LAFCO staff

### **4. Draft Service Review Report / LAFCO Public Hearing**

- Address LAFCO staff's comments and prepare a Draft Service Review Report
- LAFCO staff will distribute the Draft Report for a 21-day public review and comment period
- Provide written responses to comments received during the public review period

- Present the Draft Report at the LAFCO public hearing and / or LAFCO workshop

Work Products: Consultant must deliver a MS Word version, a PDF version and 8 hard copies of the Draft Report.

**5. Revised Draft Report / LAFCO Public Hearing**

- Revise the Draft Report to address comments and submit the Revised Draft Report
- LAFCO staff will distribute the Revised Draft Report for a 21-day public review and comment period
- Present the Revised Draft report at the LAFCO public hearing and /or LAFCO workshop

Work Products: Consultant must deliver a MS Word version and a PDF version

**6. Final Service Review Report**

- Following LAFCO adoption of the Service Review Report, prepare the Final Report.

Work Products: Consultant must deliver a MS Word version, a PDF version and 3 hard copies of the Final Report.

**SERVICES AGREEMENT BETWEEN  
THE LOCAL AGENCY FORMATION COMMISSION  
OF SANTA CLARA COUNTY AND \_\_\_\_\_  
FOR THE CITIES SERVICE REVIEW**

This Agreement ("Agreement") is made effective \_\_\_\_\_, by and between the Local Agency Formation Commission of Santa Clara County ("LAFCO") and \_\_\_\_\_ ("Contractor") to provide consulting services for preparing the Cities Service Review.

WHEREAS, pursuant to the Cortese-Knox-Hertzberg Act, Government Code section 56000 et seq., LAFCO is an independent body; and

WHEREAS, LAFCO needs assistance with the preparation of a service review of the cities in Santa Clara County; and

WHEREAS, Contractor has experience and expertise necessary to provide such services; and

WHEREAS, at the August 6, 2014 meeting of LAFCO, the Commission delegated authority to the LAFCO Executive Officer to execute an agreement with the most qualified consultant for preparation of the cities service review;

THEREFORE, the parties agree as follows:

**1. Nature of Services.**

Contractor will provide to LAFCO the services described in Exhibit A, Scope of Services, which is attached hereto and incorporated herein by this reference. Contractor shall perform the services in accordance with the project timeline as described in Exhibit A2, which is attached hereto and incorporated herein by this reference.

**2. Term of Agreement.**

This Agreement is effective from the date of final execution, to and including \_\_\_\_\_, unless terminated earlier in accordance with Section 4.

**3. Compensation.**

A. Contractor will be compensated for services provided under this Agreement in accordance with the Rate Schedule included in Exhibit A3, which is attached hereto and incorporated herein by this reference. Contractor will complete all the work and tasks described in Exhibit A for an amount not to exceed \_\_\_\_\_. The Contractor shall be paid based on the rate schedule

indicated in Exhibit A3, but compensation and expenses shall not exceed the maximum compensation stated herein.

B. Contractor will provide LAFCO with task-specific invoices based on estimated costs in Contractor's proposal, which shall be accompanied by a detailed summary of activities undertaken over the course of completing the task.

C. Delivery of the administrative draft report, the draft report addressing staff comments for public review and comment, the revised draft report for public review and comment, and the final report adopted by LAFCO shall be in accordance with the project timeline provided in Exhibit A2, which has been negotiated between the parties prior to the effective date of this Agreement, or as otherwise determined by mutual written agreement of the parties. If the reports are not delivered according to such timeline in Exhibit A2 or as otherwise mutually agreed or if they do not comply with the requirements in the Scope of Services, it is understood, acknowledged and agreed that LAFCO will suffer damage. As fixed and liquidated damages, LAFCO shall withhold from Contractor the payment of the sum of \$200 per calendar day for each and every calendar day of delay beyond the date that such reports are due in accordance with Exhibit A2, or as otherwise mutually agreed. For purposes of this section, the total cost for each of the tasks shall be consistent with the rate schedule in Exhibit A3.

#### **4. Termination.**

A. Termination Without Cause. Either party may terminate this Agreement without cause by giving the other party thirty (30) days written notice.

B. Termination for Cause. LAFCO may terminate this Agreement for cause upon written notice to Contractor. For purposes of this Agreement, cause includes, but is not limited to, any of the following: (1) material breach of this Agreement by Contractor, (b) violation by Contractor of any applicable laws, (c) assignment by Contractor of this Agreement without the written consent of LAFCO pursuant to Section 13, or (d) failure to provide services in a satisfactory manner. Such notice shall specify the reason for termination and shall indicate the effective date of such termination.

C. In the event of termination, Contractor will deliver to LAFCO copies of all reports and other work performed by Contractor under this Agreement whether complete or incomplete, and upon receipt thereof, Contractor will be compensated based on the completion of services provided, as solely and reasonably determined by LAFCO.

## **5. Project Managers; Substitution**

A. Contractor designates \_\_\_\_\_ as the Contractor's Project Manager for the purpose of performing the services under this Agreement. \_\_\_\_\_ will serve as day-to-day contact for LAFCO and work directly with staff.

B. LAFCO designates the LAFCO Executive Officer as its Project Manager for the purpose of managing the services performed under this Agreement.

C. Contractor may not substitute anyone other than \_\_\_\_\_ to serve as Project Manager without the written permission of the LAFCO Executive Officer or her authorized representative. Any such substitution shall be with a person or firm of commensurate experience and knowledge necessary for the tasks to be undertaken.

## **6. Conflicts of Interest.**

In accepting this Agreement, Contractor covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services.

Contractor further covenants that, in the performance of this Agreement, it will not employ any contractor or person having such an interest.

## **7. Indemnification/Insurance.**

Contractor's indemnification and insurance obligations with respect to this Agreement are set forth in Exhibit B, attached hereto and incorporated herein by this reference.

## **8. Compliance with all Laws.**

Contractor shall, during the term of this contract, comply with all applicable federal, state, and local rules, regulations, and laws.

## **9. Maintenance of Records.**

Contractor shall maintain financial records adequate to show that LAFCO funds paid under the contract were used for purposes consistent with the terms of the contract. These records shall be maintained during the term of this contract and for a period of three (3) years from termination of this contract or until all claims, if any, have been resolved, whichever period is longer, or longer if otherwise required under other provisions of this contract.

**10. Nondiscrimination.**

Contractor will comply with all applicable Federal, State, and local laws and regulations including Santa Clara County's equal opportunity requirements. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101 and 1102. Contractor will not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor will Contractor discriminate in provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

**11. Notices.**

All notices required by this Agreement will be deemed given when in writing and delivered personally or deposited in the United States mail, postage prepaid, return receipt requested, addressed to the other party at the address set forth below or at such other address as the party may designate in writing in accordance with this section:

To Contractor: \_\_\_\_\_  
\_\_\_\_\_

To LAFCO: LAFCO Executive Officer  
70 West Hedding Street, 11<sup>th</sup> Floor  
San Jose, CA 95110

**12. Governing Law.**

This Agreement has been executed and delivered in, and will be construed and enforced in accordance with, the laws of the State of California. Venue shall be in Santa Clara County.

**13. Assignment.**

Contractor has been selected to perform services under this Agreement

based upon the qualifications and experience of Contractor's personnel. Contractor may not assign this Agreement or the rights and obligations hereunder without the specific written consent of LAFCO. Any attempted assignment or subcontract without prior written consent will be null and void and will be cause, in LAFCO's sole and absolute discretion, for immediate termination of the Agreement.

**14. Relationships of Parties; Independent Contractor.**

Contractor will perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of LAFCO. None of the provisions of this Agreement is intended to create, nor shall be deemed or construed to create, any relationship between the parties other than that of independent parties contracting with each other for purpose of effecting the provisions of this Agreement. The parties are not, and will not be construed to be in a relationship of joint venture, partnership or employer-employee. Neither party has the authority to make any statements, representations or commitments of any kind on behalf of the other party, or to use the name of the other party in any publications or advertisements, except with the written consent of the other party or as is explicitly provided herein. Contractor will be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any.

**15. Entire Agreement.**

This document represents the entire Agreement between the parties with respect to the subject matter hereof. All prior negotiations and written and/or oral agreements between the parties with respect to the subject matter of this Agreement are merged into this Agreement.

**16. Amendments.**

This Agreement may be amended only by an instrument signed by the parties.

**17. Counterparts.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**18. Severability.**

If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, the same will either be reformed to comply with applicable law or stricken if not so conformable, so as not to affect

the validity or enforceability of this Agreement.

**19. Waiver.**

No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing, and shall apply to the specific instance expressly stated.

**20. Ownership of Materials and Confidentiality.**

A. Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for LAFCO to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Contractor under this Agreement ("Documents & Data"). Contractor shall require all sub consultants to agree in writing that LAFCO is granted a non-exclusive and perpetual license for any Documents & Data the sub consultant prepares under this Agreement. Contractor represents and warrants that Contractor has the legal right to license any and all Documents & Data. Contractor makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Contractor or provided to Contractor by LAFCO. LAFCO shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at LAFCO's sole risk.

B. Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor. Such materials shall not, without the prior written consent of Contractor, be used by Contractor for any purposes other than the performance of the Agreement. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Agreement. Nothing furnished to Contractor which is otherwise known to Contractor or is generally known, or has become known, to the related industry shall be deemed confidential. Contractor shall not use LAFCO's name or insignia, photographs of the Services, or any publicity pertaining to the Services in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of LAFCO.



C. Confidential Information. LAFCO shall refrain from releasing Contractor's proprietary information ("Proprietary Information") unless LAFCO's legal counsel determines that the release of the Proprietary Information is required by the California Public Records Act or other applicable state or federal law, or order of a court of competent jurisdiction, in which case LAFCO shall notify Contractor of its intention to release Proprietary Information. Contractor shall have five (5) working days after receipt of the Release Notice to give LAFCO written notice of Contractor's objection to LAFCO's release of Proprietary Information. Contractor shall indemnify, defend and hold harmless LAFCO, and its officers, directors, employees, and agents from and against all liability, loss, cost or expense (including attorney's fees) arising out of a legal action brought to compel the release of Proprietary Information. LAFCO shall not release the Proprietary Information after receipt of the Objection Notice unless either: (1) Contractor fails to fully indemnify, defend (with LAFCO's choice of legal counsel), and hold LAFCO harmless from any legal action brought to compel such release; and/or (2) a final and non-appealable order by a court of competent jurisdiction requires that LAFCO release such information.

**IN WITNESS WHEREOF**, LAFCO and Contractor have executed this Agreement as follows:

LAFCO

Contractor

\_\_\_\_\_  
Neelima Palacherla  
LAFCO Executive Officer

\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher Diaz, LAFCO Counsel

Exhibits to this Agreement:      Exhibit A – Scope of Services  
   Exhibit A2 – Project Timeline  
   Exhibit A3 – Rate Schedule  
   Exhibit B – Indemnification and Insurance

INSURANCE REQUIREMENTS FOR STANDARD SERVICE CONTRACTS  
BETWEEN \$50,001 AND \$100,000

Indemnity

During the term of this contract, the Contractor shall indemnify, defend, and hold harmless the Local Agency Formation Commission of Santa Clara County (hereinafter "LAFCO"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by LAFCO. It is the intent of the parties to this Agreement to provide the broadest possible coverage for LAFCO. The Contractor shall reimburse LAFCO for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor is obligated to indemnify, defend and hold harmless the LAFCO under this Agreement.

Insurance

Without limiting the Contractor's indemnification of LAFCO, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a copy of the policy or policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the LAFCO Executive Officer, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by LAFCO Executive Officer. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policyholder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the LAFCO Executive Officer.

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the LAFCO Executive Officer.

D. Insurance Required

1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:
  - a. Each occurrence - \$1,000,000
  - b. General aggregate - \$1,000,000
  - c. Products/Completed Operations aggregate - \$1,000,000
  - d. Personal Injury - \$1,000,000

2. General liability coverage shall include:
  - a. Premises and Operations
  - b. Products/Completed
  - c. Personal Injury liability
  - d. Severability of interest
3. General liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

Additional Insured Endorsement, which shall read:

“LAFCO, members of LAFCO, employees of LAFCO, County of Santa Clara, members of the Board of Supervisors of the County of Santa Clara, officers employees of the County of Santa Clara; individually and collectively, as additional insureds.”

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by LAFCO, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy.
4. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one hundred thousand dollars (\$100,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.
5. Workers' Compensation and Employer's Liability Insurance
  - a. Statutory California Workers' Compensation coverage including broad form all-states coverage.
  - b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

#### E. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the LAFCO Executive Officer or insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
2. LAFCO acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by LAFCO upon satisfactory evidence of financial capacity. Contractors obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.
3. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.

4. LAFCO reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

F. Fidelity Bonds (Required only if contractor will be receiving advanced funds or payments)

Before receiving compensation under this Agreement, Contractor will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.